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09/377,827	08/20/1999	AKIRA SUGIYAMA		8358

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EXAMINER	
FLETCHER, MARLON T	

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/377,827
Filing Date: August 20, 1999
Appellant(s): SUGIYAMA, AKIRA

Stephen T. Boughner
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/22/2005 appealing from the Office action mailed 10/20/2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

After Final The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,038,659	Satoh et al.	8-1991
4,450,743	Tanimoto	5-1984

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Satoh et al. (5,038,659) in view of Tanimoto (4,450,743).

As recited in claims 1 and 6, Satoh et al. disclose a musical score apparatus including a data processor (3) using a computer and a staff notation comprising: a keyboard (2) for inputting character or symbol data, not related to musical data, into the data processor (3) as discussed in column 3, lines 51-61 ; tables corresponding with data input into the data processor with musical data comprising character and scales of music staff notation as discussed in column 5, line 67 through column 6, line 2, and

column 9, lines 8-25, and as can be seen in figures 17-19, a note decoder for decoding the input data to correspond to scales or notes of a scale as discussed in column 3, lines 46-61", column 6, lines 7-9 and lines 20-23, and column 8, lines 52-57', a note code storage device (7) memorizing an output from the note decoder as discussed in column 5, lines 4-7., and an output means (4) for outputting musical notation as discussed in column 5, lines 8-14. Further, with respect to claim 6, Satoh et al., also disclose that the note code tables or data correspond with non-music staff character or symbol data as discussed in column 3, lines 51-61 and column 9, lines 8-25. Inherently, Satoh et al. provide note code tables as can be understood from column 9, lines 8-25. While Satoh et al. do provide the use of tables,

Satoh et al. do not disclose a table providing a listing of note codes that correspond to the input data, in the manner specifically claimed.

However, as recited in claims 1 and 6, Tanimoto discloses note code tables that • correspond to the input data as seen in and discussed in columns 5 and 6, which correspond to figures 1-4, wherein input data and note codes also correspond to musical staff notation.

As recited in claims 2-5 and 7, Tanimoto discloses a data processor, wherein the note code table is a list corresponding data input to musical scales or phrases of music staff notation as seen in figure 5, and discussed in column 3, lines 53-66, and as further seen in figure 5 and discussed in column 3, lines 53-66 and as further seen in tables in columns 5 and 6, wherein plural tables are included.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Tanimoto with the apparatus of Satoh et al., because Tanimoto provides a clear correlation of input data with stored table data including note codes to produce output data, wherein Satoh et al. provide correlation of input data with output data, only failing to show a clear correlation with note codes. Satoh et al. clearly shows the correspondence of notes and input characters as seen in figures 18 and 19.

It would have been obvious in view of Satoh et al. to provide the input data corresponding with the notes or note codes, as taught by Tanimoto, wherein the combination provides teachings of input data to the conversion of output data, wherein the output data corresponds to musical data.

(10) Response to Argument

The applicant continues to argue that the references do not suggest any reason or motivation to be combined. The applicant argues that Satoh et al. do not provide note conversion. However, Satoh et al. do provide input conversion and musical score display. Tanimoto provides note conversion and is relied upon for that reason. In combination, the references provide the teachings as claimed by the applicant. While Satoh et al. shows the correspondence or result of the input data in relation to the notes, it is obvious that the same could be shown in a table to show the same relationship. Tanimoto provides the teachings which are partly inherent in Satoh et al., wherein Tanimoto provides a clear correlation of input data with stored table data to

provide a musical output representation based on the conversion of input data to output data. Applicant argues that the notes seen in the figures relate to the musical keyboard. However, Satoh et al. provide the correlation of the input, whether matched or converted, providing the teaching of correlating the input data to the note data. In combination, the references clearly provide the teachings of the claimed limitations. The references are combined to show that at the time of the invention was made that it would have been obvious to combine the references, wherein Satoh et al. teach the claimed invention except showing the note codes in a table form. However, Tanimoto provides the deficiency, which is an obvious modification, based on teachings of Satoh et al. which show the conversion of input data to note data. While the applicant makes arguments regarding deficiencies of the prior art, the examiner disagrees and believes that the combination provides the teachings of the claimed invention.

Addressing applicant's arguments on appeal, the applicant argues that the inputted character is not related to musical data; "thus if any input device inputs character or symbol data not related to musical data, ..then that input device cannot meet the claimed computer keyboard." The examiner disagrees with this statement. As long as one input character not related to music is converted based on a note code, then it meets the limitation of the keyboard. The applicant further argues the conversion of character data to note data; arguing that the prior art numbers (characters) represent note duration not note data. However, note duration is note data. Applicant's arguments are contradicting in that the arguments made against the references clearly show that the references do in fact provide all of the claim limitations wherein character input is

clearly correlated with note data and converted and displayed as an output on a staff in a musical score.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Marlon T Fletcher/

Primary Examiner, Art Unit 2837

Conferees:

Walter Benson/Walter Benson/

Supervisory Patent Examiner, Art Unit 2837

Darren Schuberg /Darren Schuberg/

TQAS TC 2800

Note: The request for Withdrawal of Attorney has been considered and approved. Petition Decision granted 1/12/2007.